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13          Attorneys for Defendant

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15           **UNITED STATES DISTRICT COURT**  
16           **DISTRICT OF MAINE**

17          **DAVID L. FREDRICK,**

18           Plaintiff,

19           vs.

20          **ST. MATTHEW'S UNIVERSITY**  
21          **(CAYMAN LTD.),**

22           Defendant.

23           Case No. 06-CV-00052-DBH

24           **REQUEST FOR JUDICIAL NOTICE OF**  
25           **COURT DOCUMENTS, DISTRICT OF**  
26           **NEVADA (Case No. CV-S-05-0848-**  
27           **BES-LRL)**

1           Defendant ST. MATTHEW'S UNIVERSITY (CAYMAN LTD.) (hereafter "SMU")  
2 hereby requests that the Court take judicial notice of the following documents, and their  
3 respective attachments and exhibits thereto, relating to the action filed by Plaintiff St.  
4 Matthew's University (Cayman Ltd) against, among other defendants, David L. Fredrick  
5 (the plaintiff in this action, hereafter "FREDRICK") in the United States District Court,  
6 District of Nevada (*St. Matthew's University (Cayman Ltd.) v. Saba University School of*  
7 *Medicine Foundation*, Case Number CV-S-05-0848-BES-LRL):

- 8           1. Amended Complaint filed by Plaintiff St. Matthew's University (Cayman  
9           Ltd) on October 28, 2005, and served on Defendant David L. Fredrick on  
10           December 30, 2005, attached hereto as Exhibit A;
- 11           2. Affidavit of Service of Summons and First Amended Complaint on  
12           Defendant David L. Fredrick, certifying service on Defendant David L.  
13           Fredrick on December 30, 2005, attached hereto as Exhibit B;
- 14           3. Defendant David L. Fredrick's Motion to Dismiss Plaintiff's Complaint,  
15           Affidavit of David L. Fredrick, filed on February 15, 2006, attached hereto  
16           as Exhibit C;
- 17           4. Consolidated Opposition to Defendant David L. Fredrick's Motion to  
18           Dismiss Plaintiff's Complaint and Defendant Patricia Hough's, and  
19           Defendant AAIMG's Motion to Dismiss the Second, Third, Fifth and Sixth  
20           Claim filed by Plaintiff St. Matthew's University (Cayman Ltd.) on March 7,  
21           2006, attached hereto as Exhibit D;
- 22           5. Declaration of Karl Kronenberger in Support of Plaintiff's Consolidated  
23           Opposition to Defendant David L. Fredrick's Motion to Dismiss Plaintiff's  
24           Complaint and Defendant Patricia Hough's, and Defendant AAIMG's  
25           Motion to Dismiss the Second, Third, Fifth and Sixth Claim, filed by Plaintiff  
26           St. Matthew's University (Cayman Ltd.) on March 7, 2006, attached hereto  
27           as Exhibit E;

6. Reply of David L. Fredrick to Plaintiff's Opposition to Defendant David L. Fredrick's Motion to Dismiss Plaintiff's Amended Complaint filed on March 20, 2006, attached hereto as Exhibit F;
7. Order To Lift Seal, entered and signed by the Honorable Lawrence R. Leavitt on March 3, 2006, attached hereto as Exhibit G;
8. Order For Alternative Service, entered and signed by the Honorable Lawrence R. Leavitt on March 3, 2006., attached hereto as Exhibit H; and
9. Case docket (as it appears on PACER) – current as of April 3, 2006, attached hereto as Exhibit I.

SMU submits this request pursuant to Federal Rule of Evidence 201, which authorizes the judicial notice of facts that are capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably be questioned, and which makes judicial notice of such matters mandatory if requested by a party and supplied with the necessary information. Fed. R. Evid. 201(b) & (d). Courts in the First Circuit have indicated that court files are among those matters of which a court must take judicial notice if supplied with the requisite information. *Graham V. Smith*, 292 F.Supp. 2d 153, nt. 2 (citing 21 Wright & Graham, Federal Practice and Procedure: Evidence § 5106; *Lussier v. Runyon*, 50 F.3d 1103, 1114 n. 14 (1<sup>st</sup> Cir.1995)); see also *Mullis v. United States Bank. Ct.*, 828 F.2d 1385, 1388, fn. 9 (9<sup>th</sup> Cir. 1987).

21 The documents referenced above, with the exception of the case docket  
22 (Document #9), were all either filed with or issued from the Nevada Court, and are  
23 accordingly a part of the Nevada Court's file. For these reasons, SMU respectfully  
24 requests that this Court take judicial notice of these documents and consider the  
25 documents in connection with its ruling on SMU's Motion to Dismiss the Amended  
26 Complaint.

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Respectfully Submitted,

DATED: April 3, 2006.

# KRONENBERGER HANLEY, LLP

By: /s/ Karl S. Kronenberger

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Karl S. Kronenberger  
Attorneys for Defendant  
ST. MATTHEW'S UNIVERSITY  
SCHOOL OF MEDICINE (CAYMAN )

DATED: April 4, 2006.

By: /s/ \_\_P.J. Perrino, Jr.

P.J. Perrino, Jr.  
Attorney for Defendant  
ST. MATTHEW'S UNIVERSITY  
SCHOOL OF MEDICINE (CAYMAN )

## **DECLARATION OF KARL S. KRONENBERGER**

I, Karl S. Kronenberger, declare the following:

1. I am an attorney admitted to practice law before, and in good standing with, the state court of California, the federal district courts of the Northern and Central Districts of California, and the Ninth Circuit Court of Appeals.

2. I am a partner at the law firm of Kronenberger Hanley, LLP, attorneys of record for Plaintiff St. Matthew's University (Cayman Ltd) in the action filed against, among other defendants, David L. Fredrick (the plaintiff in this action), in the United States District Court, District of Nevada (*St. Matthew's University (Cayman Ltd.) v. Saba University School of Medicine Foundation*, Case Number CV-S-05-0848-BES-LRL). The exhibits attached hereto are true and correct copies of documents related to this action filed in Nevada.

3. Attached hereto as Exhibit A is a true and correct copy of the Amended Complaint filed by St. Matthew's University (Cayman Ltd) on October 28, 2005, and served on Defendant David L. Fredrick on December 30, 2005.

4. Attached hereto as Exhibit B is a true and correct copy of the Affidavit of Service of Summons and First Amended Complaint on Defendant David L. Fredrick, certifying service on Defendant David L. Fredrick on December 30, 2005.

5. Attached hereto as Exhibit C is a true and correct copy of Defendant David L. Fredrick's Motion to Dismiss Plaintiff's Complaint, Affidavit of David L. Fredrick, filed on February 15, 2006.

6. Attached hereto as Exhibit D is a true and correct copy of the Consolidated Opposition to Defendant David L. Fredrick's Motion to Dismiss Plaintiff's Complaint and Defendant Patricia Hough's, and Defendant AAIMG's Motion to Dismiss the Second, Third, Fifth and Sixth Claim filed by Plaintiff St. Matthew's University (Cayman Ltd.) on March 7, 2006.

7. Attached hereto as Exhibit E is a true and correct copy of the Declaration of Karl Kronenberger in Support of Plaintiff's Consolidated Opposition to Defendant

1 David L. Fredrick's Motion to Dismiss Plaintiff's Complaint and Defendant Patricia  
2 Hough's, and Defendant AAIMG's Motion to Dismiss the Second, Third, Fifth and Sixth  
3 Claim, filed by Plaintiff St. Matthew's University (Cayman Ltd.) on March 7, 2006.

4       8. Attached hereto as Exhibit F is a true and correct copy of the Reply of  
5 David L. Fredrick to Plaintiff's Opposition to Defendant David L. Fredrick's Motion to  
6 Dismiss Plaintiff's Amended Complaint filed on March 20, 2006.

7        9. Attached hereto as Exhibit G is a true and correct copy of the Order To Lift  
8 Seal, entered and signed by the Honorable Lawrence R. Leavitt on March 3, 2006.

9           10. Attached hereto as Exhibit H is a true and correct copy of the Order For  
10 Alternative Service, entered and signed by the Honorable Lawrence R. Leavitt on March  
11 3, 2006.

11. Attached hereto as Exhibit I is a true and correct copy of the case docket  
as it appears on PACER – current as of April 3, 2006.

15 I declare under penalty of perjury under the laws of the United States of America  
16 that the foregoing is true and correct.

18 | DATED: April 3, 2006

By: /s/ Karl S. Kronenberger

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Karl S. Kronenberger

## **CERTIFICATE OF SERVICE**

I am a resident of the State of Maine, over the age of eighteen years and not a party to this action. My business address is 128 State Street, Augusta, Maine 04330.

On April 4, 2006, I served the following document(s):

**1. REQUEST FOR JUDICIAL NOTICE; DECLARATION OF KARL S. KRONENBERGER IN SUPPORT THEREOF.**

on the parties listed below as follows:

**BARRY A. BACHRACH**  
Bowditch & Dewey, LLP  
311 Main Street  
PO Box 15156  
Worcester, MA 01615-0156  
Fax: 508-929-3003  
Counsel for Defendant  
**FREDRICK**

- BY FACSIMILE MACHINE (FAX), by personally transmitting a true copy thereof via an electronic facsimile machine to the fax number listed herein.

BY FIRST CLASS MAIL, by placing a true copy thereof in a sealed envelope, with postage thereon fully prepaid, for collection and mailing, in San Francisco, California, following ordinary business practices, which is deposited with the US Postal Service the same day as it is placed for processing.

BY PERSONAL SERVICE, by personally delivering a true copy thereof to the addressee(s) listed herein at the location listed herein.

BY OVERNIGHT DELIVERY containing a true copy thereof to the addressee(s) listed herein at the location listed herein.

BY EMAIL to the addresses listed above.

(State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Marcia Kulpa  
Marcia Kulpa